

FOR APPROVAL

**UNIFORM ACT ON PREVENTION OF AND REMEDIES  
FOR HUMAN TRAFFICKING**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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**ARTICLE I**

**GENERAL PROVISIONS**

**SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Act on Prevention of and Remedies for Human Trafficking.

**SECTION 2. DEFINITIONS.** In this [act]:

- (1) “Adult” means an individual 18 years of age or older.
- (2) “Business entity” means a person other than an individual.
- (3) “Coercion” means:
  - (A) the use or threat of force against, abduction of, serious harm to, or physical restraint of an individual;
  - (B) the use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual;
  - (C) the abuse or threatened abuse of law or legal process;
  - (D) controlling or threatening to control an individual’s access to a controlled substance set forth in [insert the appropriate state code sections defining controlled substances];
  - (E) the destruction of, taking of, or the threat to destroy or take an individual’s identification document or other property;
  - (F) use of debt bondage;
  - (G) the use of an individual’s physical or mental impairment, where such impairment has substantial adverse effects on the individual’s cognitive or volitional functions;

or

(H) the commission of civil or criminal fraud.

(4) “Commercial sexual activity” means sexual activity for which anything of value is given to, promised to, or received by a person.

(5) “Debt bondage” means inducing an individual to provide:

(A) commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(B) labor or services in payment toward or satisfaction of a real or purported debt if:

(i) the reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) the length of the labor or services is not limited and the nature of the labor or services is not defined.

(6) “Human trafficking” means the commission of any of the offenses created in Sections 3 through 7 of this [act].

(7) “Identification document” means a passport, driver’s license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(8) “Labor or services” means activity having economic value.

(9) “Minor” means an individual less than 18 years of age.

(10) “Person” means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a public corporation, government or governmental subdivision, agency, or instrumentality.

(11) “Public corporation” means an entity that is:

- (A) owned by a government, or a governmental subdivision, agency, or instrumentality; or
- (B) created to perform a governmental function or to operate under the control of a government or governmental subdivision, agency, or instrumentality.

(12) “Serious harm” means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(13) “Sexual activity” means [to be defined in each state by cross-referencing existing state statutory provisions or listing specific sexual activity, either or both], or sexually-explicit performances.

(14) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(15) “Victim” means an individual who is subjected to human trafficking or to conduct that would have constituted human trafficking had this [act] been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted.

***Legislative Note:*** For Section 2(13), states can cite their state laws on prostitution and similar crimes, or name specific sex acts, such as, for example, sexual intercourse, cunnilingus, fellatio, anal intercourse, intrusion by any object into the genital or anal opening of another’s body and the stimulation by hand or an object of another individual’s genitals or breasts, for the purpose of arousing or gratifying the sexual desire of any individual.

## ARTICLE II

### PENALTIES

#### **SECTION 3. TRAFFICKING AN INDIVIDUAL.**

(a) A person commits trafficking an individual if the person knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of:

- (1) forced labor in violation of Section 4; or
- (2) sexual servitude in violation of Section 5.

(b) Trafficking an individual is a [class c felony].

(c) Trafficking an individual when the individual is a minor is a [class b felony].

***Legislative Note:*** A state will need to ensure that the offense classifications [class b-d] in this act are modified to correspond with the existing grading and punishment ranges of the state. The three classes of felonies in the act are not intended to unduly restrict legislative discretion in the classification of offenses.

#### **SECTION 4. FORCED LABOR.**

(a) A person commits forced labor if the person knowingly uses coercion to compel an individual to provide labor or services, except where such conduct is permissible under federal law or law of this state other than this [act].

(b) Forced labor is a [class c felony].

(c) Forced labor when the individual is a minor is a [class b felony].

#### **SECTION 5. SEXUAL SERVITUDE.**

(a) A person commits sexual servitude if the person knowingly:

- (1) maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity; or
- (2) uses coercion or deception to compel an adult to engage in commercial sexual

activity.

- (b) It is not a defense in a prosecution under subsection (a)(1) that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.
- (c) Sexual servitude under subsection (a)(1) is a [class b felony].
- (d) Sexual servitude under subsection (a)(2) is a [class c felony].

## **SECTION 6. PATRONIZING A VICTIM OF SEXUAL SERVITUDE.**

(a) A person commits patronizing a victim of sexual servitude if the person knowingly gives, agrees to give, or offers to give anything of value so that an individual may engage in commercial sexual activity with another individual and the person knows that the other individual is a victim of sexual servitude.

- (b) Patronizing a victim of sexual servitude is a [class d felony].
- (c) Patronizing a victim of sexual servitude who is a minor is a [class c felony].

## **[SECTION 7. PATRONIZING A MINOR.**

(a) A person commits patronizing a minor if:

- (1) with the intent that an individual engage in commercial sexual activity with a minor, the person gives, agrees to give, or offers to give anything of value to a minor or another person so that the individual may engage in commercial sexual activity with a minor; or
- (2) the person gives, agrees to give, or offers to give anything of value to a minor or another person so that an individual may engage in commercial sexual activity with a minor.

- (b) Patronizing a minor under subsection (a)(1) is a [class b felony].
- (c) Patronizing a minor under subsection (a)(2) is a [class c felony].]

***Legislative Note:*** A majority of states already have statutory provisions addressing the offense of Commercial Sexual Abuse of a Minor or Patronizing a Minor. If a state has a provision comparable to Section 7, a state may indicate that such offense is provided for in [cite relevant state law] and may also cross reference the provision in Section 6. For those that do not, the

*language in bracketed Section 7 should be inserted.*

## **SECTION 8. BUSINESS ENTITY LIABILITY.**

(a) A business entity may be prosecuted for an offense under this [act] if:

(1) the entity knowingly engages in conduct that constitutes human trafficking; or  
(2) an employee or nonemployee agent of the entity engages in conduct that constitutes human trafficking and the commission of the offense was part of a pattern of illegal activity under this [act] for the benefit of the entity, which the entity knew was occurring and failed to take effective action to stop.

(b) The court may consider the severity of a business entity's offense under this [act] and order penalties in addition to those otherwise provided for the offense, including:

- (1) a fine of not more than \$[1,000,000] per offense;
- (2) disgorgement of profit from illegal activity in violation of the [act]; and
- (3) debarment from state and local government contracts.

## **[SECTION 9. AGGRAVATING CIRCUMSTANCE.**

(a) An aggravating circumstance during the commission of an offense under Section 3, 4, or 5 of this [act] occurs when [:

(1)] the defendant recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless[.] [; or  
(2) [insert any additional aggravating factor]].

(b) If the trier of fact finds that an aggravating circumstance occurred, the defendant may be imprisoned for up to [five] years in addition to the period of imprisonment prescribed for the offense.]

***Legislative Note:*** A state will need to examine its existing aggravating circumstances provisions to ensure that they cover the human trafficking offenses created by this act. If a state has no general statutory provision covering aggravating circumstances, the bracketed Section 9 provides a model, where states would insert additional circumstances. The circumstance set forth in Section 9(a)(1) is specific to human trafficking and a state should include along with other aggravating circumstances.

## **SECTION 10. RESTITUTION.**

(a) The court shall order a person convicted of an offense under Section 3, 4, or 5 of this [act] to pay restitution to the victim for:

(1) expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney's fees and costs; and

(2) an amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:

(A) the gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity;

(B) the amount the defendant contracted to pay the victim; or

(C) the value of the victim's labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq.,[ as amended,] or [cite state minimum wage and overtime provisions], whichever is higher, even if the provisions do not apply to the victim's labor or services or sexual activity.

(b) The court shall order restitution under subsection (a) even if the victim is unavailable to accept payment of restitution.

(c) If the victim is unavailable for [five] years from the date of the restitution order, the restitution ordered under subsection (a) must be paid to the [Human Trafficking [Council] created under Section 19 for operational costs] [[insert applicable state crime victims

compensation fund] to help human trafficking victims].

***Legislative Note:*** States should choose whether the restitution monies available after five years under subsection (c) should be paid to the Human Trafficking Council, if one exists, or to the state crime victims compensation fund and delete the bracket not chosen.

*In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in subsection (a)(2)(C).*

## **[SECTION 11. FORFEITURE.]**

(a) On motion, the court shall order a person convicted of an offense under Section 3, 4, or 5 of this [act] to forfeit:

(1) any interest in real or personal property that was used or intended to be used to commit or facilitate the commission of the offense; and

(2) any interest in real or personal property constituting or derived from proceeds that the person obtained, directly or indirectly, as a result of the offense.

(b) In any proceeding against real or personal property under this section, the owner may assert a defense, and has the burden of establishing, by a preponderance of the evidence, that the forfeiture is manifestly disproportional to the seriousness of the offense.

(c) Proceeds from the public sale or auction of property forfeited under subsection (a) must be distributed in the manner otherwise provided for the distribution of the proceeds of [criminal forfeitures] [judicial sales].]

***Legislative Note:*** A state will need to examine its existing forfeiture provisions to ensure that they cover the human trafficking offenses created by this act. States with such provisions should: (1) follow the procedures outlined in those provisions to proceed against real and personal property used as an instrumentality in committing the offense and real and personal property derived from the proceeds of the offense; (2) rely on existing procedures and judicial discretion to determine whether the seizure of assets is proportional to the criminal activity at issue; and (3) ensure proceeds from the public sale or auction of property forfeited are distributed first to victims awarded restitution or civil judgments by courts. If a state has no general forfeiture statute, the bracketed section provides a model for inclusion in this act.

## **ARTICLE III**

### **VICTIM PROTECTIONS**

**[SECTION 12. STATUTE OF LIMITATIONS.]** A prosecution for an offense under this [act] must be commenced within 20 years after commission of the offense.

**SECTION 13. VICTIM CONFIDENTIALITY.** In an investigation of or a prosecution for an offense under this [act], [law-enforcement officers and prosecuting agencies] shall keep the identity and pictures or images of the victim and the victim's family confidential, except to the extent that disclosure is necessary for the purpose of investigation or prosecution, is required by law or court order, or is necessary to ensure provision of services and benefits for the victim and the victim's family.

**SECTION 14. PAST SEXUAL BEHAVIOR OF VICTIM.** In a prosecution or civil action for damages under this [act], evidence of a specific instance of the alleged victim's past sexual behavior, or reputation or opinion evidence of past sexual behavior of the alleged victim, is not admissible unless the evidence is:

- (1) admitted in accordance with [cite state's rape shield evidence rule or statute]; or
- (2) offered by the prosecution in a criminal case to prove a pattern of trafficking by the defendant.

***Legislative Note:*** A state will need to ensure that the state's rape shield evidence rule or statute, including the relevant procedures, apply to civil and criminal proceedings and contain no provision that would conflict with the purpose of this section.

### **SECTION 15. IMMUNITY OF MINOR.**

(a) An individual who was a minor at the time of the offense is not criminally liable or subject to a [juvenile delinquency proceeding] for [prostitution] and [insert other non-violent offenses] committed as a direct result of being a victim of human trafficking.

(b) An individual who was a minor at the time of the offense who has engaged in commercial sexual activity is not criminally liable or subject to a [juvenile delinquency proceeding] for [prostitution].

(c) A minor who is immune from criminal liability or [juvenile delinquency] under subsection (a) or (b) is presumed to be a [child in need of services] under [cite child protection statutes].

(d) The immunities granted by this section do not apply in a prosecution for [patronizing a prostitute].

***Legislative Note:*** A state should determine the other non-violent offenses to be immunized by subsection (a). Examples of non-violent offenses might include such offenses as forgery, possession of stolen property, shoplifting, or uttering worthless checks. Those offenses selected by the enacting state should be added to the provision in place of the second bracketed language. In those states where a term is used other than "prostitution" and "patronizing a prostitute," those terms should be substituted within bracket one.

**SECTION 16. DEFENSE TO CHARGE OF [PROSTITUTION].** An individual charged with [prostitution] or [insert other non-violent offenses] committed as a direct result of being a victim of human trafficking may assert as an affirmative defense that the individual is a victim.

***Legislative Note:*** A state should determine the other non-violent offenses to be subject to an affirmative defense as established in this section. Those offenses should be added to the provision in place of the second bracketed language. In those states where a term is used other than "prostitution," that term should be substituted within bracket one.

## **SECTION 17. MOTION TO VACATE CONVICTION.**

(a) An individual convicted of [prostitution] or [insert other non-violent offenses] committed as a direct result of being a victim of human trafficking may apply to [insert name of appropriate court] to vacate the applicant's record of conviction for the offense. A court may grant such motion on a finding that the defendant's participation in the offense was a direct result

of being a victim of human trafficking.

(b) No official determination or documentation is required to grant a motion under this section, but official documentation from a federal, state, local, or tribal government agency indicating that the defendant was a victim at the time of the offense creates a presumption that the defendant's participation in the offense was a direct result of being a victim.

(c) A motion filed under subsection (a), any hearing conducted on the motion, and any relief granted, are governed by [insert the appropriate state code section governing post-conviction relief procedures].

***Legislative Note:*** A state should determine whether any other non-violent offenses are to be subject to post-conviction review under subsection (a). Those offenses should be added to the provision in place of the second bracket. In those states where a term is used other than "prostitution," that term should be substituted within bracket one.

*Because some, but not all, states specify the sentencing court as the proper entity to hear post-conviction motions, a state also should identify the appropriate court to hear a motion to vacate a conviction under this section by inserting the appropriate court in place of the third bracket. A state should cite the appropriate statute or rule governing post-conviction relief procedures in subsection (c) in place of the fourth bracket.*

## **SECTION 18. CIVIL ACTION.**

(a) A victim may bring a civil action against a person that commits an offense under Section 3, 4, or 5 of this [act] for [actual] [compensatory] damages, punitive damages, injunctive relief, and any other appropriate relief.

(b) In an action under this section, the court shall award a prevailing victim reasonable attorney's fees and costs.

(c) An action under this section must be commenced not later than [10] years after the later of the date on which the victim:

- (1) was freed from the human trafficking situation; or
- (2) attained 18 years of age.

(d) Damages awarded to the victim under this section for an item must be offset by any restitution paid to the victim pursuant to Section 10 for the same item.

(e) This section does not preclude any other remedy available to the victim under federal law or law of this state other than this [act].

***Legislative Note:*** *The question of whether the civil action survives the victim's death should be addressed by the state's survival statute. The adopting state should choose whether to use "actual" or "compensatory" damages in subsection (a).*

## **ARTICLE IV**

### **STATE COORDINATION**

#### **[SECTION 19. HUMAN TRAFFICKING [COUNCIL].**

(a) The [Governor] shall appoint the chair and members of a [council] on human trafficking within the [state department], including designees from [state, local, or tribal agencies] that have contact with victims or perpetrators, nongovernmental organizations that represent or work with victims, and other organizations and individuals, including victims, whose expertise would benefit the [council].

(b) The [state departments] represented on the [council] created under this section shall provide staff to the [council].

(c) The [council] created under this section shall meet on a regular basis and:

(1) develop a coordinated and comprehensive plan to provide victims with services;

(2) collect and evaluate data on human trafficking in this state and submit an annual report to the [Governor] [and legislature];

(3) promote public awareness about human trafficking, victim remedies and services, and trafficking prevention;

- (4) create a public-awareness sign that contains the [state, local, and] National Human Trafficking Resource Center hotline information;
- (5) coordinate training on human trafficking prevention and victim services for state [and local] employees who may have recurring contact with victims or perpetrators; and
- (6) conduct other appropriate activities.

***Legislative Note:** In States where a state or local hotline is in operation and is comparable to the national hotline operated by the National Human Trafficking Resource Center, the language in the bracket should be added.]*

***Legislative Note:** States will determine the proper authority for appointing members of the Human Trafficking Council. This may not in all cases be relegated exclusively to the executive branch.*

## **[SECTION 20. DISPLAY OF PUBLIC-AWARENESS SIGN; PENALTY FOR FAILURE TO DISPLAY.]**

- (a) The [state transportation department] shall display a public-awareness sign [created under Section 19(c)(4)] in every transportation station, rest area, and welcome center in the state which is open to the public.
- (b) A public awareness sign [created under Section 19(c)(4)] shall be displayed at the following locations in a place that is clearly conspicuous and visible to employees:
  - (1) a strip club and any other sexually-oriented business;
  - (2) an entity found to be a nuisance for prostitution under [cite state nuisance law];
  - (3) a job recruitment center;
  - (4) a hospital; and
  - (5) an emergency care provider.
- (c) The [state labor department] shall impose a [fine] of \$[300] per violation on an

employer that knowingly fails to comply with subsection (b). The [fine] is the exclusive remedy for failure to comply.]

## **SECTION 21. ELIGIBILITY FOR SERVICES.**

(a) A victim is eligible for a benefit or service available through the state [and identified in the plan developed under Section 19(c)(1)], including compensation under the [applicable state crime victims compensation fund], regardless of immigration status.

(b) A minor engaged in commercial sexual activity is eligible for a benefit or service available through the state [and identified in the plan developed under Section 19(c)(1)], regardless of immigration status.

(c) As soon as practicable after a first encounter with an individual who reasonably appears to [the appropriate state or local agency] to be a victim or a minor engaged in commercial sexual activity, the [agency] shall notify the [appropriate state or local agency] [identified in the comprehensive plan developed under Section 19(c)(1)] that the individual may be eligible for a benefit or service under this [act].

## **SECTION 22. LAW-ENFORCEMENT AGENCY PROTOCOL.**

(a) On request from an individual whom a [law-enforcement officer] reasonably believes is a victim who is or has been subjected to a severe form of trafficking or criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8 U.S.C. Section 1101(a)(15)(T)[, as amended,] or 8 U.S.C. Section 1101(a)(15)(U)[, as amended], or for continued presence, under 22 U.S.C. Section 7105(c)(3) [,as amended], the [law-enforcement officer], as soon as practicable after receiving the request, shall complete, sign, and give to the individual the Form I-914B or Form I-918B provided by the United States Citizenship and Immigration Services on its Internet website, and ask a federal [law enforcement officer] to

request continued presence.

(b) If the [law-enforcement agency] determines that an individual does not meet the requirements for the [agency] to comply with subsection (a), the [agency] shall inform the individual of the reason and that the individual may make another request under subsection (a) and submit additional evidence satisfying the requirements.

***Legislative Note:** In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in subsection (a).*

### **[SECTION 23. GRANT TO OR CONTRACT WITH SERVICE PROVIDER.]**

(a) [To the extent that funds are appropriated for this purpose, the] [The] [appropriate state agency] may make a grant to or contract with a unit of state and local government [, Indian tribe,] and nongovernmental victims service organization to develop or expand service programs for victims.

(b) A recipient of a grant or contract under subsection (a) shall report annually to [the [council] created by Section 19] [insert appropriate authority] the number and demographic information of all trafficking victims served.]

***Legislative Note:** States that must have explicit authority to authorize a state entity to make grants to or contract with units of local government or non-governmental organizations to provide or expand services to victims should consider enacting this section.*

## **ARTICLE V**

### **MISCELLANEOUS PROVISIONS**

**SECTION 24. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**[SECTION 25. SEVERABILITY.]** If any provision of this [act] or its application to

any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

*Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.*

**SECTION 26. EFFECTIVE DATE.** This [act] takes effect....

*Legislative Note: States may need to consider amending or repealing existing law.*